

Title 9¹
SURFACE WATER MANAGEMENT

Chapters:

9.02	General Provisions
9.04	Surface Water Runoff Policy
9.08	Surface Water Management Program
9.12	Water Quality

¹[See Ch. 20.14 for Basin Plans]

Chapter 9.02
GENERAL PROVISIONS

Sections:

- 9.02.010 Relationship to comprehensive plan and growth management act.
- 9.02.020 Notification to tribes.

9.02.010 Relationship to comprehensive plan and growth management act.

This Title is hereby enacted to be consistent with and implement the comprehensive plan in accordance with RCW 36.70A. (Ord. 11615 § 1 (part), 1994).

9.02.020 Notification to tribes. The county recognizes that many actions undertaken pursuant to Title 9, as amended, may impact treaty fishing rights of federally-recognized tribes. In order to honor and prevent interference with these treaty fishing rights and to provide for water quality and habitat preservation, the county shall provide notice to any federally-recognized tribes whose treaty fishing rights would be affected by an action undertaken pursuant to this title, including but not limited to: development of wetlands, stream and river banks, lakeshore habitat of water bodies, or development directly or indirectly affecting anadromous bearing water bodies, including the promulgation of plans, rules, regulations or ordinances implementing the provisions of this title, whether or not review of such actions is required under the State Environmental Policy Act (SEPA) RCW 43.21C. (Ord. 11615 § 1 (part), 1994).

Chapter 9.04 SURFACE WATER RUNOFF POLICY

Sections:

- 9.04.005 Scope.
- 9.04.010 Purposes.
- 9.04.020 Definitions.
- 9.04.030 Drainage review.
- 9.04.050 Drainage review - requirements.
- 9.04.060 Critical drainage and/or erosion areas.
- 9.04.070 Engineering plans for the purposes of drainage review.
- 9.04.090 Construction timing and final approval.
- 9.04.100 Liability insurance required.
- 9.04.105 Financial guarantees authorized.
- 9.04.115 Drainage facilities accepted by King County for maintenance.
- 9.04.120 Drainage facilities not accepted by King County for maintenance.
- 9.04.130 Hazards.
- 9.04.140 Administration.
- 9.04.180 Enforcement.
- 9.04.192 Liberal construction.
- 9.04.194 Implementation, review and revision.
- 9.04.196 Agency rules.
- 9.04.197 Effective date.
- 9.04.200 Severability.

9.04.005 Scope. Compliance with the standards in this chapter and the Surface Water Design Manual does not necessarily mitigate all probable and significant environmental impacts to aquatic biota. Fishery resources and other living components of aquatic systems are affected by a complex set of factors. While employing a specific flow control standard may prevent stream channel erosion or instability, other factors affecting fish and other biotic resources (such as increases in stream flow velocities) are not directly addressed by the Surface Water Design Manual. Thus, compliance with this manual should not be construed as mitigating all probable and significant stormwater impacts, and additional mitigation may be required to protect aquatic biota in streams and wetlands. (Ord. 13191 § 22, 1998).

9.04.010 Purposes. The council finds this chapter is necessary in order to promote the public health, safety and welfare by providing for the comprehensive management of surface and storm waters and erosion control, especially that which preserves and utilizes the many values of the county's natural drainage system including open space, fish and wildlife habitat, recreation, education and urban separation. The council also finds that King County shall conduct programs to reduce flooding, erosion, and sedimentation; prevent and mitigate habitat loss; enhance groundwater recharge; and prevent water quality degradation through the implementation of comprehensive and thorough permit review, construction inspection, enforcement, and maintenance in order to promote the effectiveness of the requirements contained in this chapter. (Ord. 11615 § 2, 1994; Ord. 9163 § 1, 1989).

9.04.020 Definitions. The following definitions shall apply in the interpretation and enforcement of this chapter:

A. "Adjustment" means a department approved variation in the application of the requirements of K.C.C. 9.04.050 and the Surface Water Design Manual to a particular project in accordance with K.C.C. 9.04.050C. The term adjustment replaces "variance" which had been used in prior editions of the Surface Water Design Manual.

B. "Applicant" means a property owner or a public agency or public or private utility which owns a right-of-way or other easement or has been adjudicated the right to such an easement pursuant to RCW 8.12.090, or any person or entity designated or named in writing by the property or easement owner to be the applicant, in an application for a development proposal, permit or approval.

C. "Basin" means a drainage area which drains either to the Cedar, Green, Snoqualmie, Skykomish or White rivers, or the drainage areas which drain directly to Puget Sound.

D. "Basin Plan" means a plan and all implementing regulations and procedures including, but not limited to, capital projects, public education activities and land use management adopted by ordinance for managing surface and storm water management facilities and features within individual subbasins.

E. "Closed depression" means an area which is low-lying and either has no, or such a limited, surface water outlet that during storm events the area acts as a retention basin, with more than five thousand square feet at overflow elevation.

F. "Construct or modify" means to install a new drainage pipe or ditch or make improvements to an existing drainage pipe or ditch (other than routine maintenance, repair or emergency modifications, excluding driveway culverts installed as part of single-family residential building permits) that either serves to concentrate previously unconcentrated surface and storm water runoff, or serves to increase, decrease and/or redirect the conveyance of surface and storm water runoff.

G. "Conveyance system" means the drainage facilities and features, both natural and constructed, which collect, contain and provide for the flow of surface and storm water from the highest points on the land down to a receiving water. The natural elements of the conveyance system include swales and small drainage courses, streams, rivers, lakes and wetlands. The constructed elements of the conveyance system include gutters, ditches, pipes, channels and most flow control and water quality treatment facilities.

H. "Department" means the department of natural resources or its successor organization.

I. "Development" means any activity that requires a permit or approval, including, but not limited to, a building permit, grading permit, shoreline substantial development permit, conditional use permit, special use permit, zoning variance or reclassification, subdivision, short subdivision, urban planned development, binding site plan, site development permit or right-of-way use permit.

J. "Director" means the director of the department of natural resources, or any duly authorized representative of such director.

K. "Drainage" means the collection, conveyance, containment and/or discharge of surface and storm water runoff.

L. "Drainage facility" means a constructed or engineered feature that collects, conveys, stores or treats surface and storm water runoff. Drainage facilities shall include, but not be limited to, constructed or engineered streams, pipelines, channels, ditches, gutters, lakes, wetlands, closed depressions, flow control or water quality treatment facilities, erosion and sediment control facilities and other structures and appurtenances that provide for drainage.

M. "Drainage review" means an evaluation by King County staff of a proposed project's compliance with the drainage requirements in the Surface Water Design Manual.

N. "Erosion and sediment control" means any temporary or permanent measures taken to reduce erosion, control siltation and sedimentation and ensure that sediment-laden water does not leave the site.

O. "Financial guarantee" means a form or financial security posted to ensure timely and proper completion of improvements, to ensure compliance with the King County Code, and/or to warranty materials, workmanship of improvements and design. Financial guarantees include assignments of funds, cash deposit, surety bonds and/or other forms of financial security acceptable to the director of the department of development and environmental services. For the purposes of this chapter, the terms performance guarantee, maintenance guarantee and defect guarantee are considered sub-categories of financial guarantee.

P. "Flow control facility" means a drainage facility designed to mitigate the impacts of increased surface and storm water runoff generated by site development pursuant to the drainage requirements in this chapter. Flow control facilities are designed either to hold water for a considerable length of time and then release it by evaporation, plant transpiration and/or infiltration into the ground or to hold runoff for a short period of time and then release it to the conveyance system.

Q. "Full drainage review" means the basic evaluation required by K.C.C. 9.04.030 for any proposed project that:

1. Adds five thousand square feet or more of new impervious surface;
2. Is located in a landslide hazard drainage area as mapped in the Surface Water Design Manual and adds two thousand square feet or more of new impervious surface; or
3. Is a redevelopment project proposing five hundred thousand dollars or more of site improvements which creates five thousand square feet or more of contiguous pollutant-generating impervious surface through any combination of new and/or replaced impervious surface.

R. "High-use site" means a commercial, industrial or road intersection site that generates a higher than average number of vehicle turnovers or has other characteristics that generate the potential for chronic oil accumulation. High use sites include:

1. Commercial or industrial sites subject to:
 - a. an expected daily traffic count greater than one hundred vehicles per one thousand square feet of gross building area;
 - b. petroleum storage or transfer in excess of one thousand gallons per year, not including routine fuel oil storage or transfer; or
 - c. use, storage or maintenance of a fleet of twenty-five or more diesel vehicles each weighing over ten tons; or
2. Road intersections with average daily traffic counts of twenty-five thousand vehicles or more on the main roadway and fifteen thousand or more vehicles on any intersecting roadway (excluding pedestrian or bicycle use improvement projects).

S. "Hydraulically connected" means connected through surface flow or water features such as wetlands or lakes.

T. "Impervious surface" means a hard surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development, and/or a hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roofs, walkways, patios, driveways, parking lots, storage areas, areas which are paved, graveled or made of packed or oiled earthen materials or other surfaces which similarly impede the natural infiltration of surface and storm water. Open uncovered flow control or water quality treatment facilities shall not be considered as impervious surfaces.

U. "Improvement" means streets (with or without curbs or gutters), sidewalks, crosswalks, parking lots, water mains, sanitary and storm sewers, drainage facilities, street trees and other appropriate items.

(King County 9-98)

V. "Lake management plan" means a plan describing the lake management recommendations and requirements adopted by public rule for managing water quality within individual lake basins.

W. "Large site drainage review" means the evaluation required by K.C.C. 9.04.030 for any proposed project that:

1. Has an urban plan development ((UPD), as defined in K.C.C. 21A.06.1340) land use designation in the King County Comprehensive Plan land use map;

2. Would, at full buildout of the project site, result in fifty acres or more of new impervious surface within a drainage subbasin or a number of subbasins hydraulically connected across subbasin boundaries; or

3. Is on a site of fifty acres or more within the recharge area of a sole-source aquifer designated by the federal Environmental Protection Agency and depicted as such on the areas highly susceptible to groundwater contamination map adopted as part of the King County Comprehensive Plan.

X. "Licensed civil engineer" means a person registered with the State of Washington as a professional engineer in civil engineering.

Y. "Master drainage plan" means a comprehensive drainage control plan intended to prevent significant adverse impacts to the natural and constructed drainage system, both on- and off-site.

Z. "Pollution-generating impervious surface" means an impervious surface considered to be a significant source of pollutants in surface and storm water runoff. Such surfaces include those subject to vehicular use or storage of erodible or leachable materials, wastes or chemicals and which receive direct rainfall or the run-on or blow-in of rainfall. Thus, a covered parking area would be included if runoff from uphill could regularly run through it or if rainfall could regularly blow in and wet the pavement surface. Metal roofs are also considered pollution-generating impervious surface unless they are treated to prevent leaching.

AA. "Pollution-generating pervious surface" means a nonimpervious surface with vegetative ground cover subject to use of pesticides and fertilizers. Such surfaces include, but are not limited to, the lawn and landscaped areas of residential or commercial sites, golf courses, parks and sports fields.

BB. "Preapplication" means the meeting(s) and/or form(s) used by applicants for some development permits to present initial project intentions to the department of development and environmental services or its successor agency. Preapplication does not mean application.

CC "Project" means any proposed action to alter or develop a site which may also require drainage review.

DD. "Project site" means the portion of a site subject to proposed project activities, alterations and improvements including those required by this chapter.

EE. "Redevelopment project" means a project that proposes to add, replace and/or alter impervious surface for purposes other than routine maintenance, resurfacing, regrading, or repair on a site that is already substantially developed (thirty-five percent or more existing impervious surface coverage).

FF. "Runoff" means water originating from rainfall and other precipitation that is found in drainage facilities, rivers, streams, springs, seeps, ponds, lakes and wetlands as well as shallow ground water.

GG. "Shared facility" means a drainage facility designed to meet one or more of the requirements of K.C.C. 9.04.050 for two or more separate projects contained within a basin as defined in K.C.C. 9.04.020. Shared facilities usually include shared financial commitments for those drainage facilities.

HH. "Small site drainage review" means a simplified alternative to full drainage review required by K.C.C. 9.04.030 allowed for proposed single-family residential projects that add ten thousand square feet or less of new impervious surface.

II. "Site" means the legal boundaries of the parcel or parcels of land for which an applicant has or should have applied for authority from King County to carry out a development activity including any drainage improvements required by this chapter.

JJ. "Subbasin" means a drainage area which drains to a water course or water body named and noted on common maps and which is contained within a basin as defined in K.C.C. 9.04.020.

KK. "Surface and storm water" means water originating from rainfall and other precipitation that is found in drainage facilities, rivers, streams, springs, seeps, ponds, lakes and wetlands as well as shallow ground water.

LL. "Surface Water Design Manual" means the manual (and supporting documents as appropriate) describing surface and storm water design and analysis requirements, procedures and guidance which has been formally adopted by rule under the procedures specified in K.C.C. chapter 2.98. The Surface Water Design Manual is available from the department of development and environmental services or the department of natural resources, water and land resources division or their successor agencies.

MM. "Targeted drainage review" means an abbreviated evaluation required by K.C.C. 9.04.030 for certain types of proposed projects which are not subject to full or large site drainage review. Targeted drainage review may be required for some projects in small site drainage review.

NN. "Water quality treatment facility" means a drainage facility designed to reduce pollutants once they are already contained in surface and storm water runoff. Water quality treatment facilities are the structural component of best management practices (BMPs). When used singly or in combination, water quality facilities reduce the potential for contamination of surface and/or ground waters.(Ord. 13191 § 1, 1998: Ord. 12196 § 1, 1996: Ord. 12020 § 37, 1995: Ord. 11700 § 1, 1995: Ord. 11615 § 2, 1994: Ord. 9163 § 2, 1989).

9.04.030 Drainage review. A. When required. A drainage review is required when any proposed project is subject to a King County development permit or approval and:

1. Would add five thousand square feet or more of new impervious surface;
2. Would construct or modify a drainage pipe/ditch that is twelve inches or more in size or depth or receives surface and storm water runoff from a drainage pipe/ditch that is twelve inches or more in size or depth;
3. Contains or be adjacent to a floodplain, stream, lake, wetland or closed depression, or a sensitive area as defined in K.C.C. chapter 21A.24 excluding seismic, coal mines and volcanic hazard areas.
4. Is located within a landslide hazard drainage area as mapped in the Surface Water Design Manual and would add two thousand square feet or more of new impervious surface;
5. Is located within a critical drainage area;
6. Is located within a rural zoned area subject to area clearing limits under K.C.C. 16.82.150C and would clear more than seven thousand square feet or thirty-five percent of the site, whichever is greater;
7. Is a redevelopment project proposing one hundred thousand dollars or more of improvements to an existing high-use site; or
8. Is a redevelopment project proposing five hundred thousand dollars or more of site improvements and would create five thousand square feet or more of contiguous pollution-generating impervious surface through any combination of new and/or replaced impervious surface.

B. Type of drainage review. The drainage review for any proposed project shall be targeted to the scope of the project's size, type of development and potential for impacts to the regional surface water system to facilitate preparation and review of project applications. If drainage review for a proposed project is required by K.C.C. 9.04.030A, the department of development and environmental services shall determine which of the following drainage reviews apply as specified in the Surface Water Design Manual:

1. Small site drainage review;
2. Targeted drainage review;
3. Full drainage review; or
4. Large site drainage review.

(Ord. 13191 § 2, 1998: Ord. 11615 § 4, 1994: Ord. 11016 § 13, 1993: Ord. 9163 § 3, 1989).

9.04.050 Drainage review - requirements. A. Core requirements. Every permit or approval application with drainage review required by K.C.C. 9.04.030 must meet each of the following core requirements which are described in detail in the Surface Water Design Manual.

1. Core requirement #1: Discharge at the natural location. All surface and storm water runoff from a project shall be discharged at the natural location so as not to be diverted onto, or away from, downstream properties. The manner in which runoff is discharged from the project site shall not create a significant adverse impact to downhill properties or drainage systems as specified in the discharge requirements of the Surface Water Design Manual.

2. Core requirement #2: Offsite analysis. The initial application submittal for proposed projects shall include an offsite analysis report that assesses potential offsite drainage impacts associated with development of the proposed site and proposes appropriate mitigations to those impacts. This initial submittal shall include, at minimum, a Level One downstream analysis as described in the Surface Water Design Manual. If impacts are identified, the proposed projects shall meet any applicable problem-specific requirements as specified in the Surface Water Design Manual.

3. Core Requirement #3: Flow control. Proposed projects shall provide flow control facilities to mitigate the increased surface and storm water runoff generated by the addition of five thousand square feet or more of new impervious surface and any related land-cover conversion. These facilities shall meet the area-specific flow control requirements and the flow control implementation requirements applicable to the project site as specified in the Surface Water Design Manual. Projects subject to area-specific flow control requirements shall meet one of the performance criteria listed below as directed by the Surface Water Design Manual:

a. Level One: match the predeveloped site's peak discharge rates for the two-year and ten-year return periods;

b. Level Two: match the predeveloped site's discharge durations for the predeveloped peak discharge rates between the fifty percent of the two-year peak flow through the fifty-year peak flow; or

c. Level Three: meet Level Two criteria and also match the predeveloped site's peak discharge rate for the one hundred-year return period.

4. Core requirement #4: Conveyance system. All engineered conveyance system elements for proposed projects shall be analyzed, designed and constructed to provide the minimum level of protection against overtopping, flooding, erosion and structural failure as specified by the conveyance requirements for new and existing systems and conveyance implementation requirements described in the Surface Water Design Manual.

5. Core requirement #5: Erosion and sediment plan. All proposed projects that will clear, grade, or otherwise disturb the site shall provide erosion and sediment control (ESC) that prevents, to the maximum extent possible, the transport of sediment from the site to drainage facilities, water resources and adjacent properties. Erosion and sediment controls shall be applied in accordance with K.C.C. chapter 16.82 as specified by the temporary ESC measures and performance criteria and implementation requirements in the King County erosion and sediment control standards.

6. Core requirement #6: Maintenance and operation. Maintenance of all drainage facilities in compliance with King County maintenance standards is the responsibility of the applicant/property owner as described in the Surface Water Design Manual, except those facilities for which King County is granted an easement or covenant and assumes maintenance and operation as described in the Surface Water Design Manual.

7. Core requirement #7: Financial guarantees and liability. All drainage facilities constructed or modified for projects, except downspout infiltration and dispersion systems for single family residential lots, must comply with the liability requirements of K.C.C. 9.04.100 and the financial guarantee requirements of K.C.C. Title 27A.

8. Core requirement #8: Water quality. Proposed projects shall provide water quality treatment facilities to treat polluted surface and storm water runoff generated by the addition and/or replacement of five thousand square feet or more of pollution-generating impervious surface or one acre or more of pollutant-generating pervious surface; however, pervious surfaces are specifically excluded if there is a good faith agreement with the King Conservation District to implement a farm management plan for agricultural uses, and pervious areas for other uses are specifically excluded if King County department of development and environmental services approves a landscape management plan that controls pesticides and fertilizers leaving the site. These facilities shall meet the area-specific water quality treatment requirements and the water quality implementation requirements applicable to the project site as specified in the Surface Water Design Manual. At a minimum, the facilities shall reduce pollutant loads by meeting the applicable annual average performance goals listed below for ninety-five percent of the annual average runoff volume:

- a. basic water quality: remove eighty percent of the total suspended solids;
- b. sensitive lake protection: remove fifty percent of the total phosphorus;
- c. resource stream protection: remove fifty percent of the total zinc;
- d. sphagnum bog protection: remove fifty percent of the total phosphorus and forty percent of the total nitrate plus nitrite. The discharge shall maintain a pH of less than 6.5 and an alkalinity of less than ten milligrams per liter.

B. Special Requirements. Every proposed project required by K.C.C. 9.04.030 to have drainage review shall meet any of the following special requirements which apply to the site and which are described in detail in the Surface Water Design Manual. The department of development and environmental services shall verify if a proposed project is subject to and meets any of the special requirements.

1. Special Requirement #1: Other adopted area-specific requirements. If a proposed project is in a designated critical drainage area, or is in an area included in an adopted master drainage plan, basin plan, lake management plan or shared facility plan, then the proposed project shall meet the applicable drainage requirements of the critical drainage area, master drainage plan, basin plan, lake management plan or shared facility plan.

2. Special Requirement #2: Floodplain/floodway delineation. If a proposed project contains or is adjacent to a stream, lake, wetland or closed depression, or if other King County regulations require study of flood hazards, then the one hundred year floodplain boundaries (and floodway if available or if improvements are proposed within the one hundred year floodplain), based on an approved flood hazard study as described in the Surface Water Design Manual, shall be delineated on the site improvement plans and profiles, and on any final subdivision maps prepared for the proposed project.

3. Special Requirement #3: Flood protection facilities. If a proposed project contains or is adjacent to a Class 1 or 2 stream that has an existing flood protection facility (such as levees, revetments and berms), or proposes to construct a new, or modify an existing, flood protection facility, then the flood protection facilities shall be analyzed and/or designed as specified in the Surface Water Design Manual to conform with the Federal Emergency Management Administration regulations (44 CFR).

4. Special Requirement #4: Source Control. If a proposed project requires a commercial building or commercial site development permit, then water quality source controls shall be applied to prevent rainfall and runoff from coming into contact with pollutants to the maximum extent possible. Water quality source controls shall be applied in accordance with K.C.C. chapter 9.12 and the King County stormwater pollution control manual. All structural source controls shall be identified on the site improvement plans and profiles or final maps prepared for the proposed project.

5. Special Requirement #5: Oil control. If a proposed project is a high-use site or is a redevelopment project proposing \$100,000 or more of improvements to an existing high-use site, then oil control shall be applied to all runoff from the high-use portion of the site as specified in the Surface Water Design Manual.

C. Adjustment.

1. An adjustment to the requirements contained in this section and/or other requirements in the Surface Water Design Manual may be proposed provided that the resulting development shall be subject to all of the remaining terms and conditions of this chapter and provided that granting the variance shall:

- a. produce a compensating or comparable result in the public interest, and
- b. meet this chapter's objectives of safety, function, appearance, environmental protection and maintainability based upon sound engineering judgment.

2. If meeting the provisions of K.C.C. 9.04.050C.1.a will deny reasonable use of a property, the best practicable alternative shall be obtained as determined by the director of the department of development and environmental services according to the adjustment process defined in the Surface Water Design Manual.

3. Requests for adjustments which may be in conflict with the requirements of any other King County division shall require review and concurrence with that division.

4. Requests for adjustments shall be processed in accordance with procedures specified in the Surface Water Design Manual. (Note that the adjustment concept has been termed "variance" in earlier editions of the Surface Water Design Manual).

5. The county may require monitoring of experimental designs and technology or untested applications proposed by the applicant in order to determine compliance with K.C.C. 9.04.050C.1 and the approved plans and conditions.

6. The applicant may appeal an adjustment decision by following the appeal procedures as specified in the Surface Water Design Manual. (Ord. 13191 § 4, 1998: Ord. 12822 § 1, 1997: Ord. 12020 § 38, 1995: Ord. 12001 § 1, 1995: Ord. 11615 § 5, 1994: Ord. 10570 § 1, 1992: Ord. 9163 § 5, 1989: Ord. 7817 § 2, 1986: Ord. 4938 § 5, 1980: Ord. 2812 § 3, 1976: Ord. 2281 § 5, 1975).

9.04.060 Critical drainage and or erosion areas. Development in areas where the department has determined that the existing flooding, drainage and/or erosion conditions present an imminent likelihood of harm to the welfare and safety of the surrounding community shall meet special drainage requirements set by the director until such time as the community hazard is alleviated. Such conditions may include the limitation of the volume of discharge from the subject property to predevelopment levels, preservation of wetlands or other natural drainage features or other controls necessary to protect against community hazard. Where alternate facility designs or methods will produce a compensating or comparable result in the public interest and which will meet this section's objectives of safety, function, appearance, environmental protection and maintainability, based upon sound engineering judgment, an adjustment to the special drainage requirements promulgated under this section may be proposed, provided that the resulting development shall be subject to all of the remaining terms and conditions of this chapter. Where application of this section will deny all reasonable use of a property and a facility or design that produces a compensating or comparable result cannot be obtained, then a best practicable alternative may be obtained, to be determined by the director of the department of development and

environmental services according to the adjustment process defined in the Surface Water Design Manual. (Ord. 13191 § 5, 1998: Ord. 12001 § 2, 1995: Ord. 10570 § 2, 1992: Ord. 9163 § 6, 1989: Ord. 7990 § 4, 1987: Ord. 7817 § 2, 1986: Ord. 4938 § 6, 1980: Ord. 2812 § 4, 1976).

(King County 9-98)

SURFACE WATER RUNOFF POLICY

9.04.070 - 9.04.090

9.04.070 Engineering plans for the purposes of drainage review. A. Where to submit.

1. All engineering plans shall be submitted to the department of development and environmental services for review in accordance with the Surface Water Design Manual except those drainage plans developed by, or under the review of, the department of natural resources for either surface and storm water capital improvement, repair, maintenance or restoration projects or other government agency projects that are linear in shape, such as roadways, railways, pipelines, utility lines and trails. If engineering plans are returned for any reason, they shall be returned to the applicant.

2. All master drainage plans, if required, shall be submitted to the department of development and environmental services for review in accordance with the specifications in the Surface Water Design Manual. The master drainage plan process should commence at the same time as the State Environmental Policy Act (SEPA) process.

3. All drainage plans not subject to review by the department of development and environmental services pursuant to subsection 1 shall be reviewed by the department of natural resources in accordance with K.C.C. 9.04.050. Project applicability and compliance with K.C.C. 9.04.050 shall be documented in writing and available for review.

B. Expiration. The expiration time frames as specified in the Surface Water Design Manual shall apply to all permit and approval applications.

C. Processing. All plans shall be processed in accordance with the review procedures specified in the Surface Water Design Manual.

D. Contents. All submittal procedures, definitions and specifications for the required contents of engineering plans are presented in the Surface Water Design Manual. (Ord. 13191 § 6, 1998: Ord. 12001 § 3, 1995: Ord. 11700 § 2, 1995: Ord. 9163 § 7, 1989: Ord. 7817 § 2, 1986: Ord. 2812 § 5, 1976: Ord. 2281 § 6, 1975).

9.04.090 Construction timing and final approval. A. No work related to permanent or temporary storm drainage control for a permitted development may proceed without the approval of the director of the department of development and environmental services.

B. Erosion and sediment control measures associated with both the interim and permanent drainage systems shall be:

1. Constructed in accordance with the approved plan prior to any grading or land clearing other than that associated with an approved erosion and sediment control plan; and

2. Satisfactorily sequenced and maintained until all improvements, restoration, and landscaping associated with the permit and approvals for the project are completed and the potential for onsite erosion has passed.

C. Prior to the construction of any improvements or buildings on the site, or to final recording of a plat or short plat, those portions of the drainage facilities necessary to accommodate the control of surface and stormwater runoff discharging from the site shall be constructed and in operation, but, after receipt of a written request, the development engineer may authorize recording to minimize impacts that may result from construction during inappropriate times of the year. (Ord. 13694 § 83, 1999: Ord. 13191 § 7, 1998: Ord. 9163 § 8, 1989: Ord. 7990 § 5, 1987: Ord. 7817 § 2, 1986: Ord. 4938 § 7, 1980).

9.04.100 Liability insurance required. The applicant required to construct the drainage facility pursuant to K.C.C. chapter 9.04 shall maintain a combined single limit per occurrence liability policy in the amount established annually by the King County risk management program, which shall name King County as an additional insured and protect King County from liability relating to the construction or maintenance of the facility until construction approval or acceptance for maintenance, whichever is last. Proof of this required liability policy shall be provided to the director of development and environmental services prior to commencing construction of any drainage facility. If this liability insurance is not kept in effect as required, King County may initiate enforcement action pursuant to K.C.C. Title 23. (Ord. 13191 § 8, 1998: Ord. 12020 § 39, 1995: Ord. 11700 § 3, 1995: Ord. 9163 § 9, 1989: Ord. 7990 § 6, 1987: Ord. 7817 § 2, 1986: Ord. 4938 § 8, 1980: Ord. 2812 § 6, 1976: Ord. 2281 § 7, 1975).

9.04.105 Financial guarantees authorized. The department of development and environmental services (or its successor organization) is authorized to require all applicants issued permits or approvals under the provisions of the title to post financial guarantees consistent with the provisions of Title 27A. (Ord. 12020 § 33, 1995).

9.04.115 Drainage facilities accepted by King County for maintenance.

A. King County is responsible for the maintenance, including performance and operation, of drainage facilities which have formally been accepted for maintenance by the director.

B. King County may assume maintenance of privately maintained drainage facilities only if the following conditions have been met:

1. All necessary easements or dedications entitling the county to properly maintain the drainage facility have been conveyed to the county;

2. The director has determined that the facility is in the dedicated public road right-of-way or that maintenance of the facility will contribute to protecting or improving the health, safety and welfare of the community based upon review of the existence of or potential for:

- a. flooding,
- b. downstream erosion,
- c. property damage due to improper function of the facility,
- d. safety hazard associated with the facility,
- e. degradation of water quality or in-stream resources, or
- f. degradation to the general welfare of the community; and

3. The director has declared in writing acceptance of maintenance responsibility by the county. Copies of this document will be kept on file in the department of natural resources, water and land resources division.

C. The director may terminate the department's assumption of maintenance responsibilities in writing after determining that continued maintenance will not significantly contribute to protecting or improving the health, safety and welfare of the community based upon review of the existence of or potential for:

1. Flooding,
2. Downstream erosion,
3. Property damage due to improper function of the facility,
4. Safety hazard associated with the facility,
5. Degradation of water quality or in-stream resources, or
6. Degradation to the general welfare of the community.

Copies of this document will be kept on file in the department of natural resources, water and land resources division.

D. A drainage facility which does not meet the criteria of this section shall remain the responsibility of the applicant required to construct the facility and persons holding title to the property for which the facility was required. (Ord. 13191 § 10, 1998).

(King County 12-99)

SURFACE WATER RUNOFF POLICY

9.04.120

9.04.120 Drainage facilities not accepted by King County for maintenance. A. The person or persons holding title to the property and the applicant required to construct a drainage facility shall remain responsible for the facility's continual performance, operation and maintenance in accordance with the standards and requirements of the department and remain responsible for any liability as a result of these duties. This responsibility includes maintenance of a drainage facility which is:

1. Under a maintenance guarantee or defect guarantee;
2. A private road conveyance system;
3. Released from all required financial guarantees prior to July 7, 1980 (the effective date of Ordinance 4938):
 4. Located within and serving only one single family residential lot;
 5. Located within and serving a multi-family or commercial site unless the facility is part of an approved shared facility plan;
 6. Located within or associated with an administrative or formal subdivision which handles runoff from an area of which less than two-thirds is designated for detached or townhouse dwelling units located on individual lots unless the facility is part of an approved shared facility plan;
7. Previously terminated for assumption of maintenance responsibilities by the department in accordance with K.C.C. 9.04.110; or
8. Not otherwise accepted by the county for maintenance.

B. Prior to the issuance of any of the permits and/or for any multi-family or commercial project required to have a flow control or water quality treatment facility, the applicant shall record a declaration of covenant as specified in the Surface Water Design Manual. The restrictions set forth in such covenant shall include, but not be limited to, provisions for notice to the persons holding title to the property of a King County determination that maintenance and/or repairs are necessary to the facility and a reasonable time limit in which such work is to be completed.

1. In the event that the titleholders do not effect such maintenance and/or repairs, King County may perform such work upon due notice. The titleholders are required to reimburse King County for any such work. The restrictions set forth in such covenant shall be included in any instrument of conveyance of the subject property and shall be recorded with the King County records division.

2. The county may enforce the restrictions set forth in the declaration of covenant provided in the Surface Water Design Manual.

C. Prior to the issuance of any of the permits and/or approvals for the project or the release of financial guarantees posted to guarantee satisfactory completion, the person or persons holding title to the subject property for which a drainage facility was required shall pay a fee established by the director of department of development and environmental services to reasonably compensate the county for costs relating to inspection of the facility to ensure that it has been constructed according to plan and applicable specifications and standards.

D. The duties specified in this section with regard to payment of inspection fees and reimbursement of maintenance costs shall be enforced against the person or persons holding title to the property for which the drainage facility was required.

E. Where not specifically defined in this section, the responsibility for performance, operation and maintenance of drainage facilities and conveyance systems, both natural and constructed, shall be determined on a case by case basis. (Ord. 13191 § 11, 1998: Ord. 12020 § 40, 1995: Ord. 9006 § 1, 1989: Ord. 7990 § 7, 1987: Ord. 7817 § 2, 1986: Ord. 5824 § 9, 1982: Ord. 4938 § 10, 1980).

9.04.130 Hazards. Whenever the director determines that any existing construction site, erosion and sedimentation problem and/or drainage facility poses a hazard to life and limb, endangers any property, and/or adversely affects the condition or capacity of other drainage facilities, the safety and operation of county right-of-way, utilities, and/or other property owned or maintained by the county, the applicant/person to whom the permit was issued pursuant to K.C.C. 9.04.030, the owner of the property within which the drainage facility is located, the applicant/person responsible for maintenance of the facility, and/or other person or agent in control of said property, upon receipt of notice in writing from the director shall within the period specified therein repair or otherwise address the cause of the hazardous situation in conformance with the requirements of this chapter.

Should the director have reasonable cause to believe that the situation is so adverse as to preclude written notice, the director may take the measures necessary to eliminate the hazardous situation; provided that the director shall first make a reasonable effort to locate the owner before acting. In such instances the applicant of whom a drainage plan was required pursuant to K.C.C. 9.04.030, the owner of the property and/or the person responsible for the maintenance of the facility shall be obligated for the payment of all costs incurred. If costs are incurred and a financial guarantee pursuant to this chapter or other county requirement has been posted, the director shall have the authority to collect against the financial guarantee to cover costs incurred. (Ord. 13191 § 13, 1998: Ord. 12020 § 41, 1995: Ord. 11700 § 5, 1995: Ord. 9163 § 11, 1989: Ord. 7817 § 2, 1986: Ord. 5824 § 11, 1982: Ord. 4938 § 11, 1980).

9.04.140 Administration. A. Administration.

1. The director is authorized to promulgate and adopt administrative rules under the procedures specified in K.C.C. 2.98, for the purpose of implementing and enforcing the provisions of this chapter. Adopted administrative rules are available to the public from the department of development and environmental services or the department of natural resources, water and land resources division. This includes, but is not limited to, the Surface Water Design Manual.

2. The director of department of development and environmental services is authorized to develop procedures for applying adopted rules and regulations during the review of permit applications for the development of land. These procedures may also be contained in the Surface Water Design Manual.

B. Inspections. The director is authorized to make such inspections and take such actions as may be required to enforce the provisions of this chapter.

C. Right of entry. Whenever necessary to make an inspection to enforce any of the provisions of this chapter, monitor for proper function of drainage facilities or whenever the director has reasonable cause to believe that violations of this chapter are present or operating on a subject property or portion thereof, the director may enter such premises at all reasonable times to inspect the same or perform any duty imposed upon the director by this chapter; provided that, if such premises or portion thereof is occupied, the director shall first make a reasonable effort to locate the owner or other person having charge or control of the premises or portion thereof and demand entry.

D. Access. Proper ingress and egress shall be provided to the director to inspect, monitor or perform any duty imposed upon the director by this chapter. The director shall notify the responsible party in writing of failure to comply with this access requirement. Failing to obtain a response within seven days from the receipt of notification the director may order the work required completed or otherwise address the cause of improper access. The obligation for the payment of all costs that may be

incurred or expended by the county in causing such work to be done shall thereby be imposed on the person holding title to the subject property. (Ord. 13191 § 14, 1998: Ord. 9163 § 12, 1989: Ord. 7990 § 8, 1987: Ord. 7817 § 2, 1986: Ord. 5824 § 10, 1982: Ord. 4938 § 12, 1980).

(King County 9-98)
SURFACE WATER RUNOFF POLICY

9.04.180 - 9.04.200

9.04.180 Enforcement. The director is authorized to enforce the provisions of this chapter, the ordinances and resolutions codified in it, and any rules and regulations promulgated thereunder pursuant to the enforcement and penalty provisions of K.C.C. Title 23. (Ord. 13191 § 17, 1998: Ord. 7990 § 9, 1987: Ord. 7817 § 2, 1986: Ord. 2909 § 3(part), 1976: Ord. 2281 (part), 1975).

9.04.192 Liberal construction. This chapter is exempted from the rule of strict construction and shall be liberally construed to give full effect to the objectives and purposes for which it was enacted. (Ord. 9163 § 17, 1989).

9.04.194 Implementation, review and revision. The department shall administer a training program for users of the Surface Water Design Manual. The department shall also conduct an on-going research program to evaluate the effectiveness of the requirements in meeting the purpose of this chapter. This research program will examine, but not be limited to, hydrologic and hydraulic analysis methods, stream geomorphologic analysis methods, water quality, best management practices and erosion and sediment control measures. (Ord. 13191 § 20, 1998: Ord. 9163 §§ 18-19, 1989).

9.04.196 Agency rules. Any documents and/or manuals formally adopted by rule under the procedures specified in K.C.C. chapter 2.98 which implement the policies promulgated in this chapter are governed by the King County Code. Any inconsistencies identified will be controlled by the King County Code. (Ord. 13191 § 21, 1998).

9.04.197 The effective date of Ordinance 13191 is August 31, 1998. (Ord. 13191 § 19, 1998).

9.04.200 Severability. If any provision of this chapter or its application to any person or property is held invalid, the remainder of the chapter or the application of the provision to other persons or property shall not be affected. (Ord. 9163 § 20, 1989: Ord. 7817 § 2, 1986: Ord. 2812 § 11, 1976: Ord. 2281 § 12, 1975).

(King County 12-98)

Chapter 9.08
SURFACE WATER MANAGEMENT PROGRAM

Sections:

- 9.08.010 Definitions.
- 9.08.020 Authority.
- 9.08.030 Surface water management citizens committee.
- 9.08.040 Purpose.
- 9.08.050 Applicability.
- 9.08.060 Policy.
- 9.08.070 Rate structure.
- 9.08.080 Rate adjustments and appeals.
- 9.08.085 Petition for additional services.
- 9.08.090 Billing procedure.
- 9.08.100 Delinquencies and foreclosures.
- 9.08.110 Surface water management fund.
- 9.08.120 Administrative procedures.
- 9.08.125 Report of revenue and expenditure analysis.
- 9.08.140 Severability.

9.08.010 Definitions. The following definitions shall apply in the interpretation and enforcement of this chapter:

A. "Basin plan" means a plan and all implementing regulations and procedures including but not limited to capital projects, public education activities, land use management regulations adopted by ordinance for managing surface and storm water management facilities and features within individual subbasins.

B. "County" means King County.

C. "Department" means the department of natural resources or its successor agency.

D. "Developed parcel" means any parcel altered from the natural state by the construction, creation or addition of impervious surfaces.

E. "Director" means the director of the department of natural resources or its successor agency or the director's designee.

F. "Division" means the department of natural resources, water and land resources division or its successor agency.

G. "Lake management plan" means the plan, and supporting documents as appropriate, describing the lake management recommendations and requirements which has been formally adopted by rule under the procedures specified in K.C.C. chapter 2.98. Adopted lake management plans are available from the division and the department of development and environmental services. A synopsis of adopted lake management plans will be distributed to all Surface Water Design Manual subscribers as part of the manual's routine update process.

H. "Drainage facility" means the system of collecting, conveying, and storing surface and storm water runoff. Drainage facilities shall include but not be limited to all surface and storm water conveyance and containment facilities including streams, pipelines, channels, ditches, swamps, lakes, wetlands, closed depressions, infiltration facilities, retention/detention facilities, erosion/sedimentation control facilities and other drainage structures and appurtenances, both natural and constructed.

I. "Impervious surface" means a hard surface area which either prevents or retards the entry of water into the soil mantle as it entered under natural conditions prior to development, and/or a hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roofs, walkways, patios, driveways, parking lots, storage areas, areas which are paved, graveled or made of packed or oiled earthen materials or other surfaces which similarly impede the natural infiltration of surface and storm water. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces for the purpose of this chapter.

J. "Land use code" means restrictions on the type of development for a specific parcel of land as identified by records maintained by the King County department of assessments as modified or supplemented by information resulting from investigation by the division. Land use codes are preliminary indicators of the extent of impervious surface and are used in the initial analysis to assign an appropriate rate category for a specific parcel.

K. "Maintenance" means the act or process of cleaning, repairing or preserving a system, unit, facility, structure or piece of equipment.

L. "Natural surface water drainage system" means such landscape features as rivers, streams, lakes and wetlands. This system circulates water in a complex hydrological cycle.

M. "Open space" means any parcel, property or portion thereof classified for current use taxation under K.C.C. chapter 20.36 and chapter 84.34 RCW, or for which the development rights have been sold to King County under K.C.C. chapter 26.04. This definition includes lands which have been classified as open space, agricultural or timber lands under criteria contained in K.C.C. chapter 20.36 and chapter 84.34 RCW.

N. "Parcel" means the smallest separately segregated unit or plot of land having an identified owner, boundaries and surface area which is documented for property tax purposes and given a tax lot number by the King County assessor.

O. "Person" means any individual, firm, company, association, corporation or governmental agency.

P. "Program" means the surface water management program as set forth in this chapter.

Q. "Rate category" means the classification in this chapter given to a parcel in the service area based upon the type of land use on the parcel and the percentage of impervious surface area contained on the parcel.

R. "Residence" means a building or structure or portion thereof, designed for and used to provide a place of abode for human beings. The term residence includes the term "residential" or "residential unit" as referring to the type of or intended use of a building or structure.

S. "Residential parcel" means any parcel which contains no more than three residences or three residential units which are within a single structure and is used primarily for residential purposes.

T. "Retention/detention facility" means a type of drainage facility designed either: to hold water for a considerable length of time and then release it by any combination of evaporation, plant transpiration and infiltration into the ground; or to hold runoff for a short period of time and then release it to the surface and storm water management system.

U. "Service area" means unincorporated King County.

V. "Storm water plan" means a King County ordinance specifying the storm water control facilities that will be funded by a bond issue.

(King County 12-99)

W. "Surface and storm water management services" means the services provided by the surface water management program, including but not limited to basin planning, facilities maintenance, regulation, financial administration, public involvement, drainage investigation and enforcement, aquatic resource restoration, surface and storm water quality and environmental monitoring, natural surface water drainage system planning, intergovernmental relations and facility design and construction.

X. "Subbasin" means a drainage area which drains to a water course or water body named and noted on common maps and which is contained within a basin as defined in K.C.C. 9.04.020.

Y. "Surface and storm water" means water originating from rainfall and other precipitation that is found in drainage facilities, rivers, streams, springs, seeps, ponds, lakes and wetlands as well as shallow ground water.

Z. "Surface and storm water management system" means constructed drainage facilities and any natural surface water drainage features that do any combination of collection, storing, controlling, treating or conveying surface and storm water.

AA. "Undeveloped parcel" means any parcel which has not been altered from its natural state by the construction, creation or addition of impervious surface. (Ord. 13695 § 1, 1999: Ord. 11522 § 1, 1994: Ord. 11015 § 1, 1993: Ord. 10187 § 1, 1991: Ord. 7817 § 2, 1986: Ord. 7590 § 1, 1986).

9.08.020 Authority. A. There is hereby created and established the surface water management program of King County under which the provisions of this chapter shall be carried out.

B. The program created in this section shall be administered by the division.

C. Whenever necessary to examine the property characteristics of a particular parcel for the purposes of implementing this chapter, the director may enter any property or portion thereof at reasonable times in compliance with the following procedures:

1. If the property or portion thereof is occupied, the director shall present identification credentials, state the reason for entry and request entry;

2. If the property or portion thereof is unoccupied, the director shall first make a reasonable effort to locate the owner or other persons having charge or control of the property or portion thereof and request entry; and

3. Unless entry is consented to by the owner or person in control of any property or portion thereof, the director, before entry, shall obtain a search warrant as authorized by the laws of the state of Washington.

D. The director is authorized to enforce this chapter, the ordinances and resolutions codified in it and any rules and regulations promulgated thereunder pursuant to the enforcement and penalty provisions of K.C.C. Title 23.

E. The program may provide services related to surface and storm water management, including but not limited to basin planning, facilities maintenance, regulation, financial administration, public involvement, drainage investigation and enforcement, aquatic resource restoration, surface and storm water quality and environmental monitoring, natural surface water drainage system planning, intergovernmental relations, and facility design and construction. The program may contract for services with interested municipalities or special districts including but not limited to sewer and water districts, school districts, port districts or other governmental agencies.

F. 1. Whenever a city or town annexes an area, or a city or town incorporates an area and the county has issued revenue bonds or general obligation bonds to finance storm water control facilities that are payable in whole or in part from rates or charges imposed in the area, the county shall continue imposing all portions of the rates or charges that are allocated to payment of the debt service on bonds in that area after the effective date of the annexation or official date of the incorporation until:

- a. the debt is retired;
- b. any debt that is issued to refinance the underlying debt is retired; or
- c. the city or town reimburses the county an amount that is sufficient to retire that portion of the debt borne by the annexed or incorporated area.

2. If the county provides storm water management services to the city or town by contract, the contract shall consider the value of payments made by property owners to the county for the payment of debt service. This section applies whether or not the bonds finance facilities that are geographically located within the area that is annexed or incorporated.

The county shall construct all facilities included in the storm water plan financed by the proceeds of the bonds. The storm water plan may be modified and facilities authorized in the storm water plan may be added, deleted or modified either before or after annexation or incorporation of part of the service area when the county council determines, after notification of cities within the affected basins, that the changes are necessary or advisable in order to implement the storm water plan within available funding levels. If bond proceeds are insufficient to complete all facilities authorized in the storm water plan, the county council shall, after notification of cities within the affected basins, prioritize the use of bond proceeds to construct those facilities most necessary and in the best interest of the area served by the storm water plan. If the storm water plan is amended for the reasons in this section, any related agreements with other jurisdictions shall be revised as necessary. (Ord. 13695 § 2, 1999: Ord. 11015 § 2, 1993: Ord. 10187 § 2, 1991: Ord. 7817 § 2, 1986: Ord. 7590 § 2, 1986).

9.08.030 Surface Water Management Citizens Committee. A. The surface water management citizens committee is hereby established. The committee shall act in an advisory capacity to the director on matters concerning surface and storm water management and may submit independent recommendations to the county executive and county council. The committee shall review, advise and make recommendations regarding matters such as general program focus, program service levels and financing, and policies on surface and storm water issues.

B. The committee shall be comprised of twenty-five members appointed by the executive and confirmed by the council who reside, own property or have a community interest in the service area. At least four members shall live in cities which have mutual drainage interests with the county. The committee members shall include a cross section of the public affected by the program including private citizens, commercial, community and environmental organizations.

C. The appointments shall be effective until December 31 of the third year following each member's appointment date. Members whose terms have expired shall serve until replacements are appointed. Members may be reappointed for one additional term.

D. The committee shall select its officers, including chair, vice-chair and any others it deems necessary.

E. The committee shall adopt appropriate by-laws. (Ord. 10187 § 3, 1991: Ord. 9453, 1990: Ord. 7817 § 2, 1986: Ord. 7590 § 4, 1986).

(King County 12-99)

9.08.040 Purpose. It is the finding of the county that the Surface Water Management Program is necessary in order to promote public health, safety and welfare by establishing and operating a comprehensive approach to surface and storm water problems which would reduce flooding, erosion and sedimentation, prevent and mitigate habitat loss, enhance groundwater recharge and prevent water quality degradation. This comprehensive approach includes the following elements: basin planning, land use regulation, construction of facilities, maintenance, public education, and provision of surface and storm water management services. It is the finding of the county that the most cost effective and beneficial approach to surface and storm water management is through preventative actions and protection of the natural drainage system. In approaching surface and storm water problems the Surface Water Management Program shall give priority to methods which provide protection or enhancement of the natural surface water drainage system over means which primarily involve construction of new drainage facilities or systems. The purpose of the rates and charges established herein is to provide a method for payment of all or any part of the cost and expense of surface and storm water management services or to pay or secure the payment of all or any portion of any issue of general obligation or revenue bonds issued for such services. These rates and charges are necessary in order to promote the public health, safety and welfare by minimizing uncontrolled surface and storm water, erosion, and water pollution; to preserve and utilize the many values of the county's natural drainage system including water quality, open space, fish and wildlife habitat, recreation, education, urban separation and drainage facilities; and to provide for the comprehensive management and administration of surface and storm water. (Ord. 11615 § 6, 1994: Ord. 10187 § 4, 1991: Ord. 7817 § 2, 1986: Ord. 7590 § 5, 1986).

9.08.050 Applicability. A. Developed parcels within the service area shall be billed each year for surface and storm water management services pursuant to RCW 36.89.080. Surface and storm water management services or service charges, or both shall be imposed on developed parcels lying within cities and towns when the services or charges, or both, have been provided for by interlocal agreements between the county and the cities or towns. That portion of the rates or charges allocated to payment of debt service on revenue or general obligation bonds issued to finance storm water control facilities in areas annexed or incorporated subsequent to the issuance of the bonds shall be imposed as set forth in K.C.C. 9.08.020. In addition, the county and cities or towns may enter into interlocal agreements allowing the city or town to provide surface and storm water management services or charges, or both, for specified developed parcels lying within unincorporated King County.

B. The service area may be modified in accordance with policy contained in K.C.C. 9.08.060. Modifications to the service area shall be by ordinance. (Ord. 13695 § 3, 1999: Ord. 11015 § 3, 1993: Ord. 10187 § 5, 1991: Ord. 8626 § 2, 1988: Ord. 7817 § 2, 1986: Ord. 7590 § 6, 1986).

9.08.060 Policy. A. It is the finding of the county that the majority of the basins in the service area are shared with incorporated cities and towns. In order to achieve a comprehensive approach to surface and storm water management the county and incorporated jurisdictions within a specific basin should coordinate surface and storm water, management services. In addition, the program may contract for services with interested municipalities or special districts including but not limited to sewer and water districts, school districts, port districts or other governmental agencies.

B. It is the finding of the county that many of the difficulties found in the management of surface and storm water problems are contributed to by the general lack of public knowledge about the relationship between human actions and surface and storm water management. In order to achieve a comprehensive approach to surface and storm water management the county should provide general information to the public about land use and human activities which impact surface and storm water management. Pursuant to RCW 36.89.085, it is the finding of the county that public school districts can provide significant benefits to the county regarding surface and storm water management through educational programs and community activities related to protection and enhancement of the surface and storm water management system. These programs and activities can provide students with an understanding of human activities and land use practices that create surface and storm water problems and involve students by learning from first hand exposure, the difficulties of resolving surface and storm water management problems after they occur.

C. It is the finding of the county that developed parcels contribute to an increase in surface and storm water runoff to the surface and storm water management system. This increase in surface and storm water runoff results in the need to establish rates and charges to finance the county's activities in surface and storm water management. Developed parcels shall be subject to the rates and charges of the surface water management program based on their contribution to increased runoff. The factors to be used to determine the degree of increased surface and storm water runoff to the surface and storm water management system from a particular parcel shall be the percentage of impervious surface coverage on the parcel and the total acreage of the parcel.

D. It is the finding of the county that undeveloped parcels do not contribute as much as developed parcels to an increase in surface and storm water runoff into the surface and storm water management system. Undeveloped properties shall be exempt from the rates and charges of the surface water management program.

E. It is the finding of the county that maintained drainage facilities mitigate the increased runoff contribution of developed parcels by providing on-site drainage control. Parcels served by retention/detention facilities which were required for development of the parcel pursuant to K.C.C. chapter 9.04 and approved by King County or can be demonstrated as required in K.C.C. 9.08.080 by the property owner to provide detention/retention of surface and storm water to the standards in K.C.C. chapter 9.04 shall receive a discount as provided in the rates and charges of the surface water management program, if the facility is maintained at the parcel owner's expense to the standard established by the department. That portion of the rates or charges allocated for payment of debt service on revenue or general obligation bonds issued to finance storm water control facilities will not be discounted for retention/detention facilities.

(King County 12-99)

F. It is a finding of the county that open space properties provide a benefit to the surface and storm water management system by the retention of property in an undeveloped state. Open space properties shall receive a discount from the rates and charges to encourage the retention of property as open space.

G. It is a finding of the county that the majority of the parcels in the service area are residential. The variance between residential parcels in impervious surface coverage is found to be minor and to reflect only minor differences in increased runoff contributions. The administrative cost of calculating the service charge individually for each residential parcel and maintaining accurate information would be very high. A flat charge for residential parcels is less costly to administer than calculating a separate charge for each parcel and is equitable because of the similarities in impervious surface coverage between residential parcels. Therefore, residential parcels shall be charged a flat charge based upon an average amount of impervious surface.

H. It is a finding of the county that very lightly developed nonresidential parcels which have an impervious surface coverage of ten percent or less of the total parcel acreage are characterized by a very low intensity of development and generally a large number of acres. A greater number of acres of undeveloped land associated with an impervious surface results in significantly less impact to the surface and storm water management system. Many of the very lightly developed properties are recreational, agricultural and timber lands identified in the King County comprehensive plan and should be encouraged to retain their low intensity of development. These parcels shall be charged a flat rate which will encourage the retention of large areas of very lightly developed land.

I. It is the finding of the county that lightly to very heavily developed nonresidential parcels which have an impervious surface coverage of more than ten percent have a substantial impact on the surface and storm water management system. The impact of these parcels on the surface and storm water management system increases with the size of the parcels. Therefore, lightly to very heavily developed properties shall be charged a rate determined by the percent of impervious surface coverage multiplied by the parcel acreage.

J. It is a finding of the county that county and state roads contribute a significant amount of increased runoff to the surface and storm water management system, which contributes to the need for basin planning, drainage facilities and other related services. However, both the county roads and state highway programs provide substantial annual programs for the construction and maintenance of drainage facilities, and the roads systems and their associated drainage facilities serve as an integral part of the surface and storm water management system. The rate charged county roads and state highways shall reflect the benefit which county roads and state highway facilities provide to the surface and storm water management system. County and state road drainage systems unlike the drainage systems on other properties are continually being upgraded to increase both conveyance capacity and control. It is envisioned that the roads program will work cooperatively with the surface water management program to improve regional surface and storm water management services as new information is available from basin plans and other sources. The percentage of impervious surface coverage for county roads and state highways shall be calculated by dividing average width of roadway and shoulder by the average width of the right of way. The service charge shall be calculated in accordance with RCW 90.03.525.

(King County 12-99)

K. It is the finding of the county that comprehensive management of surface and storm water runoff must include anticipation of future growth and development in the design and improvement of the surface and storm water management system. Service charge revenue needs shall be based upon the present and future requirements of the surface and storm water management system, and these needs shall be considered when determining the rates and charges of the program.

L. It is the finding of the county that basin plans are essential to establishing a comprehensive approach to a capital improvement program, maintenance of facilities and regulation of new developments. A plan should analyze the measures needed to control surface and storm water runoff which results from existing and anticipated development within the basin. The measures investigated to control runoff should include land use regulation such as setback requirements or community plan revisions which revise land use densities as well as the use of drainage facilities. A plan also should recommend the quantity and water quality runoff control measures required to further the purposes set forth in K.C.C. 9.08.040, and community goals. The institutional requirements and regulations, including but not limited to land use management, funding needs, and incentives for preserving the natural surface water drainage system should be identified in the plan. The proposed ordinances and regulations necessary to implement the plan shall be transmitted to the council simultaneously with the plan.

M. It is the finding of the county that areas with development related surface and storm water problems require comprehensive management of surface and storm water.

N. It is the finding of the county that additional surface and storm water runoff problems may be caused by new land use development if not properly mitigated both through protection of natural systems and through constructed improvements. The Surface Water Design Manual and K.C.C Titles 9, 16, 20 and 21A have been adopted by King County to mitigate the impact of land use development. Further mitigation of these impacts is based on expertise which continues to evolve as new information on our natural systems is obtained and new techniques are discovered. The surface water management program, through reconnaissance studies, basin plans, and other special studies, will continuously provide valuable information on the existing problems and areas of the natural drainage system that need special protection. The county is researching and developing methods to protect the natural drainage system through zoning, buffering and setbacks to alleviate existing problems. Setback and buffering measures allow natural preservation of wetlands and stream corridors to occur, alleviate erosion and water pollution and provide a safe environment for the small mammals and fish which inhabit sensitive areas. Based upon the findings in this subsection, and as information and methods become available, the executive, as appropriate shall draft and submit to the council, regulations and development standards to allow protection of the surface and storm water management system including natural drainage systems.

O. It is finding of the county that the unique stormwater needs of the unincorporated rural area of the county require that the county's surface water management program established under chapter 36.89 RCW develop a rural drainage program. The intent of this rural drainage program is to provide a means through which existing and emerging surface water problems in the rural areas can be addressed in a manner that preserves both rural resources and rural activities including agriculture and forestry. Rural drainage services provided by the division shall support a rural level of development and not facilitate urbanization. This rural drainage program shall result in a program consistent with Countywide Planning Policies LU-10 and LU-21, and which implements King County Comprehensive Plan policies F-103, F-325, R-109 and R-110.

(King County 12-99)

P. The program will maintain long term fiscal viability and fund solvency for all of its related funds. All required capital and operating expenditures will be covered by service charges and other revenues generated or garnered by the program. The program will pay all current operating expenses from current revenues and will maintain an operating reserve to minimize service impacts due to revenue or expenditure variances from plan during a fiscal year. This reserve will be calculated based on the historic variability of revenue and expenditures. The program will adopt a strategic financial planning approach which recognizes the dynamic nature of the program's fiscal operating environment. Long term projections will be updated in the program's adopted strategic plan. One-time revenues will be dedicated to one-time-only expenditures and will not be used to support ongoing requirements. The program's approach to financial reporting and disclosure will be comprehensive, open, and accessible.

Q. The program shall prepare an annual, multi-year Capital Improvement Program which encompasses all of the program's activities related to the acquisition, construction, replacement, or renovation of capital facilities or equipment. All proposed new facilities will be subject to a consistent and rigorous needs analysis. The program's capital facilities will be planned and financed to ensure that the benefits of the facilities and the costs for them are balanced over time.

R. The program will manage its debt to ensure continued high credit quality, access to credit markets, and financial flexibility. All of the program's debt management activities will be conducted to maintain at least the current credit ratings assigned to the county's debt by the major credit rating agencies and to maintain an adequate debt service coverage ratio. Long term debt will not be used to support operating expenses. The program will develop and maintain a central system for all debt-related records which will include all official statements, bid documents, ordinances indentures, leases, etc., for all of the program's debt and will accurately account for all interested earnings in debt-related funds. These records will be designed to ensure that the program is in compliance with all debt covenants and with state and federal laws. (Ord. 13695 § 4, 1999: Ord. 11015 § 4, 1993: Ord. 10187 § 6, 1991: Ord. 7817 § 2, 1986: Ord. 7590 § 7, 1986).

9.08.070 Rate structure. A. The service charges shall be based on the relative contribution of increased surface and storm water runoff from a given parcel to the surface and storm water management system. The percentage of impervious surfaces on the parcel and the total parcel acreage will be used to indicate the relative contribution of increased surface and storm water runoff from the parcel to the surface and storm water management system. The relative contribution of increased surface and storm water runoff from each parcel will determine that parcel's share of the service charge revenue needs. The service charge revenue needs of the program are based upon all or any part, as determined by the council, of the cost of surface and storm water management services or to pay or secure the payment of all or any portion of any issue of general obligation or revenue bonds issued for that purpose.

B. The division shall determine the service charge for each parcel within the service area by the following methodology:

Residential and very lightly developed nonresidential parcels shall receive a flat rate service charge for the reasons set forth in K.C.C. 9.08.060. Light to very heavily developed parcels shall be classified into the appropriate rate category by their percentage of impervious surface coverage. Land use codes or data collected from parcel investigations, or both will be used to determine each parcel's percentage of impervious surface coverage. After a parcel has been assigned to the appropriate rate category, the service charge for the parcel will be calculated by multiplying the total acreage of the parcel times the rate for that category.

C. Effective January 1, 1992, there is hereby imposed upon all developed properties in the service area annual service charges as follows:

SURFACE WATER MANAGEMENT SERVICE CHARGES

Class	Impervious Surface %	Rate
Residential	NA	\$ 85.02/parcel/year
Very Light	0 to ≤ 10%	85.02/parcel/year
Light	>10% to ≤ 20%	198.40/acre/year
Moderate	>20% to ≤ 45%	410.98/acre/year
Moderately Heavy	>45% to ≤ 65%	793.60/acre/year
Heavy	>65% to ≤ 85%	1,006.16/acre/year
Very Heavy	>85% to ≤ 100%	1,317.94/acre/year
County Roads	NA	Set in accordance with RCW 90.03.525
State Highways	NA	Set in accordance with RCW 90.03.525

The minimum service charge in any class shall be \$85.02/parcel/year. Mobile home parks' maximum annual service charges in any class shall be \$85.02 times the number of mobile home spaces.

D. The county council will review the surface water management service charges annually to ensure the long term fiscal viability of the program and to guarantee that debt covenants are met. The program will use equitable and efficient methods to determine service charges.

E. When a parcel with impervious surface is divided by the boundary of the service area and a portion of the parcel's impervious surface drains into the service area, the parcel shall be charged as otherwise provided herein on the basis of the lands and impervious surfaces which drain into the service area. When the director has determined that the impervious surface of a parcel, divided by the boundary of the service area, completely drains outside of the service area, the parcel will be exempt from the rates and charges of this chapter.

F. The King County council by ordinance may supplement or alter charges within specific basins and subbasins of the service area so as to charge properties or parcels of one basin or subbasin for improvements, studies or maintenance which the council deems to provide service or benefit the property owners of one or more basins or subbasins. (Ord. 13695 § 5, 1999: Ord. 11015 § 5, 1993: Ord. 10187 § 7, 1991: Ord. 8626 § 3, 1988: Ord. 8373 § 2, 1988: Ord. 7817 § 2, 1986: Ord. 7590 § 8, 1986).

(King County 12-99)

9.08.080 Rate adjustments and appeals. A. Any person billed for service charges may file a "request for rate adjustment" with the division within three years of the date from which the bill was sent. However, filing of such a request does not extend the period for payment of the charge.

B. Requests for rate adjustment may be granted or approved by the director only when one of the following conditions exists:

1. The parcel is owned and is the personal residence of a person or persons determined by the county assessor as qualified for a low income senior citizen property tax exemption authorized under RCW 84.36.381. Parcels qualifying under this subsection B.1 shall be exempt from all charges imposed in K.C.C. 9.08.070;

2. The acreage of the parcel charged is in error;

3. The parcel is nonresidential and the actual impervious surface coverage of the parcel charged places it in a different rate category than the rate category assigned by the division;

4. The parcel is nonresidential and the parcel meets the definition of open space in section 9.08.010 of this chapter. Parcels qualifying under this subsection B.4 will be charged only for the area of impervious surface and at the rate which the parcel is classified under using the total parcel acreage;

5. The parcel is served by one or more retention/detention facilities required pursuant to K.C.C. chapter 9.04, or can be demonstrated by the property owner to provide detention/retention of surface and storm water to the standards in K.C.C. chapter 9.04, and is maintained at the expense of the parcel owner to the standards required by the department. Nonresidential parcels except in the light category qualifying under this subsection B.5 shall be charged at the rate of one lower rate category than it is classified by its percentage of impervious surface coverage. Nonresidential parcels in the light rate category qualifying under this subsection B.5 shall be charged at the rate of \$85.02/acre/year. Residential parcels and parcels in the very light category qualifying under this subsection B.5 shall be charged \$42.51 per parcel per year;

6. The parcel is owned or leased by a public school district which provides activities which directly benefit the surface water management program. The activities may include: curriculum specific to the issues and problems of surface and storm water management, and student activities in the community to expose students to the efforts required to restore, monitor or enhance the surface and storm water management system. Pursuant to RCW 36.89.085, the amount of the rate adjustment shall be determined by the director based upon the cost of the activities to the school district but not to exceed the value of the activity to the surface water management program. Determination of which activities qualify for the surface water management service charge reduction will be made by the division. Reductions in surface water management service charges will only be granted to school districts which provide programs that have been evaluated by the division. The rate adjustment for the school district activity may be applied to any parcel in the service area which is owned or operated by the school district; or

7. The service charge bill was otherwise not calculated in accordance with this chapter.

C. The property owner shall have the burden of proving that the rate adjustment sought should be granted.

D. Decisions on requests for rate adjustments shall be made by the director based on information submitted by the applicant and by the division within thirty days of the adjustment request except when additional information is needed. The applicant shall be notified in writing of the director's decision. If an adjustment is granted which reduces the charge for the current year or two prior years, the applicant shall be refunded the amount overpaid in the current and two prior years.

E. If the director finds that a service charge bill has been undercharged, then either an amended bill shall be issued which reflects the increase in the service charge or the undercharged amount will be added to the next year's bill. This amended bill shall be due and payable under K.C.C. 9.08.100. The director may include in the bill the amount undercharged for two previous billing years in addition to the current bill.

F. Decisions of the director on requests for rate adjustments shall be final unless within thirty days of the date the decision was mailed, the applicant submits in writing to the director a notice of appeal setting forth a brief statement of the grounds for appeal and requesting a hearing before the King County hearing examiner. The examiner's decision shall be a final decision pursuant to K.C.C. 20.24.080. (Ord. 13695 § 6, 1999: Ord. 11015 § 6, 1993: Ord. 10187 § 8, 1991: Ord. 7817 § 2, 1986: Ord. 7590 § 9, 1986).

9.08.085 Petition for additional services. King County residents inside or outside the existing Surface Water Management service area may petition the King County council for establishment of an independent fee for additional services not currently provided by Surface Water Management to them. Sixty percent (60%) of the residents of the proposed special service area may petition the council for the additional service and charge. The purpose of the petition process and additional charge is to: 1) provide additional services to residents within the existing service area; 2) provide additional services to residents outside the service area; or 3) expand the service area to include the area within the petition.

The executive shall develop a process for creating special service areas and the criteria for acceptance of the special service areas by June 1992. The executive should use the process outlined in Exhibit B as a guide for developing the petition process and the criteria for acceptance of the special service areas. (Ord. 10187 § 13, 1991).

9.08.090 Billing Procedure. A. All property subject to charges of the program shall be billed based on the property characteristics existing on November 1, of the year prior to the billing year and at the rate as set forth in K.C.C. 9.08.070. Billing year is the year that the bills are sent. The service charge shall be displayed and billed on the annual property tax statement for the parcel and shall be mailed to the name and address shown on the real property tax roll at the time annual property tax bills are prepared. Parcels which are exempt from property taxes and do not receive an annual property tax statement will receive a bill only for the service charge. If a payment less than the sum of the total property tax plus service charge or less than the sum of one-half of the property tax plus one-half of the service charge is received for a combined property tax and service charge, and the parcel owner has not otherwise specified, the director of the office of finance shall first apply the payment to the annual property tax of the parcel pursuant to the provisions of RCW 84.56 and then apply any remaining amount to the service charge.

(King County 12-99)

B. The total amount of the service charge shall be due and payable to the director of the office of finance on or before the 30th day of April and shall be delinquent after that date; however, if one-half of such service charge is paid on or before the said 30th day of April, the remainder shall be due and payable on or before the 31st day of October and shall be delinquent after that date.

C. Parcel characteristics affecting the service charge which are altered after November 1 of any year shall not be a basis for calculation of the service charge until after December 31 of the following year. EXCEPTION: Adjustments to the annual service charge may be made when property is incorporated or annexed by another jurisdiction. The service charge for the billing year during which incorporation or annexation occurs may:

1. Be subject to a proration formula included in an interlocal agreement between the county and the incorporating or annexing jurisdiction; or

2. If the incorporation or annexation interlocal agreement does not address the surface water management charge, then incorporated or annexed properties will be subject to a surface water management charge of one-quarter of the annual service charge for each quarter of the billing year during which the property was in unincorporated King County for one or more days. For purposes of determining this modified service charge, the billing quarters will be for January 1 through March 31; April 1 through June 30; July 1 through September 30; and October 1 through December 31.

3. The debt service portion of the service charge will not be prorated. (Ord. 11015 § 7, 1993: Ord. 10187 § 9, 1991: Ord. 8626 § 1, 1988: Ord. 7817 § 2, 1986: Ord. 7590 § 12, 1986).

9.08.100 Delinquencies and foreclosures. A. Delinquent service charges shall bear interest as provided in RCW 36.89.090 and 36.89.092 at the rate of 12 percent per annum, or such rate as may hereafter be authorized by law, computed on a monthly basis from the date of delinquency until paid. Interest shall be calculated at the rate in effect at the time of payment of the charges regardless of when the charges were first delinquent.

B. Pursuant to RCW 36.89.090, the county shall have a lien for delinquent service charges, including interest thereon, against any property subject to service charges. The lien shall be superior to all other liens and encumbrances except general taxes and local and special assessments. Pursuant to RCW 36.89.090, such lien shall be effective and shall be enforced and foreclosed in the same manner as the foreclosure of real property tax liens as provided in RCW 36.94.150. The county may commence to foreclose a surface water management service charge lien after three years from the date surface water management charges become delinquent. Pursuant to RCW 36.94.150 collections shall include costs of foreclosure in addition to service charges and interest. (Ord. 11506 § 1, 1994: Ord. 8373 § 1, 1988: Ord. 7817 § 2, 1986: Ord. 7590 § 13, 1986).

9.08.110 Surface water management fund. All service charges shall be deposited in the surface water management fund in the office of finance which fund is hereby created to be used only for the purpose of paying all or any part of the cost and expense of providing surface water management services, or to pay or secure the payment of all or any portion of any issue of general obligation or revenue bond issued for that purpose. Moneys in the fund not needed for immediate expenditure shall be invested for the benefit of the surface water management fund pursuant to the first paragraph of RCW 36.29.020 and such procedures and limitations as are contained in county ordinance, but sufficient funds shall be transferred no later than the end of the fiscal year in which they were first appropriated for capital projects appropriated in the surface and storm water management construction fund beginning in fiscal year 1988. The program's funds balances and other financial resources will be invested conservatively to match strong security of principal with market rates of return. For investment purposes the director of the department of natural resources is hereby designated the fund manager. (Ord. 13695 § 7, 1999: Ord. 10187 § 10, 1991: Ord. 7817 § 2, 1986: Ord. 7590 § 14, 1986).

9.08.120 Administrative procedures. Pursuant to K.C.C. 2.98 the director shall develop administrative procedures relating to the implementation of this chapter. This includes but is not limited to:

A. Procedures for the imposition and collection of service charges and/or for filing of liens and initiation of foreclosure on delinquent accounts and the collection of the debt service portion of the service charge in areas that annex or incorporate;

B. Lake management plans for:

1. Beaver Lake;
2. Lake Desire;
3. Cottage Lake (plan dated February 1996). (Ord. 12513 § 1, 1996: Ord. 12101 § 1, 1996: Ord. 11522 § 2, 1994: Ord. 11015 § 8, 1993: Ord. 10187 § 11, 1991: Ord. 7817 § 2, 1986: Ord. 7590 § 15, 1986).

9.08.125 Report of revenue and expenditure analysis. The Surface Water Management Program shall report to the council every three years regarding the results of a revenue and expenditure analysis for capital improvement projects for each subarea within the service area to determine the relationship between expenditures and revenues generated in each subarea. The program shall identify areas where additional expenditures are required and how the program expects to address any differences. (Ord. 10187 § 12, 1991).

9.08.140 Severability. If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of this chapter and the application of the provisions to other persons or circumstances shall not be affected. (Ord. 7817 § 2, 1986: Ord. 7590 § 17, 1986).

(King County 12-99)

Chapter 9.12 WATER QUALITY¹

Sections:

9.12.005	Purpose.
9.12.015	Definitions.
9.12.025	Discharges into King County waters.
9.12.035	Best Management Practices.
9.12.045	Administration.
9.12.050	Enforcement.
9.12.060	Hazards.
9.12.070	Criminal penalty.
9.12.080	Civil penalties for water quality.
9.12.090	Construction-intent.
9.12.100	Effective date.
9.12.110	Severability.

9.12.005 Purpose. The purpose of this chapter is to protect the county's surface and ground water quality by providing minimum requirements for reducing and controlling the discharge of contaminants. The county council recognizes that water quality degradation can result either directly from one discharge or through the collective impact of many small discharges. Therefore, this chapter prohibits the discharge of contaminants into surface and storm water and ground water, and outlines preventive measures to restrict contaminants from entering such waters. These measures include the implementation of best management practices (BMPs) by the residents of King County.

The county council finds this chapter is necessary to protect the health, safety and welfare of the residents of King County and the integrity of the county's resources for the benefit of all by: minimizing or eliminating water quality degradation; preserving and enhancing the suitability of waters for recreation, fishing, and other beneficial uses; and preserving and enhancing the aesthetic quality and biotic integrity of the water. The county council recognizes that implementation of this chapter is required under the federal Clean Water Act, 33 U.S.C. 1251 et. seq. In meeting the intent of the Clean Water Act the county council also recognizes the importance of maintaining economic viability while providing necessary environmental protection and believes this chapter helps achieve both goals. (Ord. 11624 § 5, 1994; Ord. 10636 § 2, 1992).

9.12.015 Definitions. The following definitions shall apply in the interpretation and enforcement of this chapter:

A. "AKART" means an acronym for "all known, available, and reasonable methods of prevention, control, and treatment." AKART shall represent the most current methodology that can be reasonably required for preventing, controlling, or abating the pollutants associated with a discharge. The concept of AKART applies to both point and nonpoint sources of pollution.

¹. [Statutory provisions for water pollution control - See RCW 90.48.]

B. "Best management practices" or "BMPs" mean the best available and reasonable physical, structural, managerial, or behavioral activities, that when used singly or in combination, eliminate or reduce the contamination of surface and/or ground waters.

C. "Chapter" means this chapter and any administrative rules and regulations adopted to implement this chapter.

D. "Clean Water Act" means 33 U.S.C. 1251 et. seq., as amended.

E. "County" means the municipality of King County.

F. "Director" means the director of the King County department of public works, other department directors specified in enforcement procedures established pursuant to this chapter, or any duly authorized representatives of such directors.

G. "Discharge" means to throw, drain, release, dump, spill, empty, emit, or pour forth any matter or to cause or allow matter to flow, run, or seep from land or be thrown, drained, released, dumped, spilled, emptied, emitted or poured into water.

H. "Drainage facility" means the system that collects, conveys, and stores surface and storm water runoff. Drainage facilities shall include but not be limited to all surface and storm water conveyance and containment facilities including streams, pipelines, channels, ditches, swamps, lakes, wetlands, closed depressions, infiltration facilities, retention/detention facilities, erosion/sedimentation control facilities and other drainage structures and appurtenances, both natural and artificial.

I. "Farm management plan" means a comprehensive site-specific plan developed by the farm owner in cooperation with the King County Conservation District taking into consideration the land owners objectives while protecting water quality and related natural resources.

J. "Forest practices" means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, as defined in Chapter 222-16 Washington Administrative Code.

K. "Ground water" means all waters that exist beneath the land surface or beneath the bed of any stream, lake, or reservoir, or other body of surface water, whatever may be the geological formation or structure in which such water stands or flows, percolates or otherwise moves.

L. "National Pollutant Discharge Elimination System" or "NPDES" means the national program for controlling pollutants from point source discharges directly into waters of the U.S. under the Clean Water Act.

M. "National Pollutant Discharge Elimination System permit" means an authorization, license, or equivalent control document issued by the Environmental Protection Agency or the Washington State Department of Ecology to implement the requirements of the NPDES program.

N. "Person" means an individual, their agents or assigns; municipality; political subdivision; government agency; partnership; corporation; business; or any other entity.

O. "Source control BMP" means a BMP intended to prevent contaminants from entering surface and storm water and/or ground water including the modification of processes to eliminate the production or use of contaminants. Source control BMPs can be either structural or non-structural. Structural source control BMPs involve the construction of a physical structure on site, or other type of physical modification to a site; for example, building a covered storage area. A non-structural source control BMP involves the modification or addition of managerial or behavioral practices; for example, using less toxic alternatives to current products or sweeping parking lots.

(King County 12-94)

P. "State Waste Discharge Permit" means an authorization, license, or equivalent control document issued by the Washington State Department of Ecology in accordance with Chapter 173-216 Washington Administrative Code.

Q. "Storm Water BMP Manual" or "manual" means the manual (and supporting documents as appropriate) describing best management practices, design, maintenance, procedures, and guidance which has been approved by the King County council.

R. "Surface and storm water" means water originating from rainfall and other precipitation that is found in drainage facilities, rivers, streams, springs, seeps, ponds, lakes and wetlands as well as shallow ground water.

S. "Treatment BMP" means a BMP intended to remove contaminants once they are already contained in storm water. Examples of treatment BMPs include: oil/water separators, biofiltration swales, and wet-settling basins. (Ord. 11624 § 5, 1994: Ord. 10636 § 3, 1992).

9.12.025 Discharges into King County waters. A. Prohibited discharges.

1. It is unlawful for any person to discharge any contaminants into surface and storm water, ground water, or Puget Sound. Contaminants include, but are not limited, to the following:

- a. trash or debris;
- b. construction materials;
- c. petroleum products including but not limited to oil, gasoline, grease, fuel oil, heating oil;
- d. antifreeze and other automotive products;
- e. metals in either particulate or dissolved form;
- f. flammable or explosive materials;
- g. radioactive material;
- h. batteries;
- i. acids, alkalis, or bases;
- j. paints, stains, resins, lacquers, or varnishes;
- k. degreasers and/or solvents;
- l. drain cleaners;
- m. pesticides, herbicides, or fertilizers;
- n. steam cleaning wastes;
- o. soaps, detergents, or ammonia;
- p. swimming pool backwash;
- q. chlorine, bromine, and other disinfectants;
- r. heated water;
- s. domestic animal wastes;
- t. sewage;
- u. recreational vehicle waste;
- v. animal carcasses;
- w. food wastes;

- x. bark and other fibrous materials;
- y. collected lawn clippings, leaves, or branches;
- z. silt, sediment, or gravel;
- aa. dyes (except as stated in subsection C.1. of this section);
- bb. chemicals, not normally found in uncontaminated water;
- cc. any hazardous material or waste, not listed above.

2. Illicit connections. Any connection, identified by the director, that could convey anything not composed entirely of surface and storm water directly to surface and storm water or ground water is considered an illicit connection and is prohibited with the following exceptions: connections conveying allowable discharges, connections conveying discharges pursuant to an NPDES permit (other than an NPDES storm water permit) or a State Waste Discharge Permit, and connections conveying effluent from onsite sewage disposal systems to subsurface soils.

B. Allowable discharges. The following types of discharges shall not be considered prohibited discharges for the purpose of this chapter unless the director of public works determines that the type of discharge, whether singly or in combination with others, is causing significant contamination of surface and storm water or ground water:

- 1. Potable water;
- 2. Potable water line flushing;
- 3. Uncontaminated water from crawl space pumps or footing drains;
- 4. Lawn watering;
- 5. Residential car and boat washing;
- 6. Dechlorinated swimming pool water;
- 7. Materials placed as part of an approved habitat restoration or bank stabilization project;
- 8. Natural uncontaminated surface water or ground water;
- 9. Flows from riparian habitats and wetlands;
- 10. The following discharges from boats: engine exhaust, cooling waters, effluent from sinks, showers and laundry facilities and treated sewage from Type I and Type II marine sanitation devices;
- 11. Common practices for water well disinfection; and
- 12. Other types of discharges as determined by the director of public works.

C. Exceptions.

1. Dye testing is allowable but requires verbal notification to the King County surface water management division at least one day prior to the date of test. The King County health department is exempt from this requirement.

2. If a person has properly designed, constructed, implemented and is maintaining BMPs, and is carrying out AKART as required by this chapter, and contaminants continue to enter surface and storm water or ground water; or the person can demonstrate that there is no additional contaminants being discharged from the site above the background conditions of the water entering the site; that person shall not be in violation of subsection A. of this section. The said person however, is still liable for prohibited discharges through illicit connections, dumping, spills, improper maintenance of BMPs, or other discharges that allow contaminants to enter surface and storm water or ground water.

(King County 12-94)

3. Emergency response activities or other actions that must be undertaken immediately or within a time too short to allow full compliance with this chapter, to avoid an imminent threat to public health or safety, shall be exempt from this section. The director of public works may specify actions that qualify for this exception in county procedures. The person responsible for emergency response activities should take steps to ensure that the discharges resulting from such activities are minimized to the greatest extent possible. In addition, this person shall evaluate BMPs and the site plan, where applicable, to restrict recurrence. (Ord. 11624 § 5, 1994: Ord. 11624 § 2, 1994: Ord. 10636 § 4, 1992).

9.12.035 Best management practices. A. Best management practices.

1. The King County surface water management division shall develop a Storm Water Best Management Practices Manual and present this manual to the King County council for approval. The manual shall present BMPs and procedures for existing facilities and activities and for new development activities not covered by the King County surface water design manual. At a minimum, the manual shall describe the types of regulated activities; the types of contaminants generated by each activity, and the contaminant's effect on water quality; the required source control BMPs and available treatment BMPs, including information on design and maintenance; allowable use of alternative BMPs; and a schedule for BMP implementation.

2. In applying the BMP manual, the director shall first require the implementation of source control BMPs. If these are not sufficient to prevent contaminants from entering surface and storm water or ground water, the director may require implementation of treatment BMPs, according to AKART. The King County surface water management division will provide, upon reasonable request, available technical assistance materials and information, and information on outside financial assistance options to persons required to comply with this chapter.

B. Exemptions.

1. Persons implementing BMPs through another federal, state, or local program will not be required to implement the BMPs prescribed in the county's manual, unless the director determines the alternative BMPs to be ineffective at reducing the discharge or contaminants. If the other program requires the development of a best management practices plan, the person shall make their plan available to King County upon request. Persons who qualify for exemptions include, but are not limited to, persons who are:

a. required to obtain a general or individual NPDES permit for storm water discharges from the Washington State Department of Ecology;

b. implementing and maintaining, as scheduled, a King Conservation District-approved farm management plan;

c. permitted under a Washington State Department of Ecology NPDES general or individual permit for commercial dairy operations;

d. implementing BMPs in compliance with K.C.C. 21A.30 - Development Standards: Animals, Home Occupation, Home Industry;

e. implementing BMPs in compliance with the management program of the county's municipal NPDES permit;

f. engaged in forest practices, with the exception of forest practices occurring on lands platted after January 1, 1960, or on lands being converted to another use, or where regulatory authority is otherwise provided to local government by RCW 76.09.240; or

g. identified by the director of public works as being exempt from this section.

2. Persons conducting normal single family residential activities will not be required to implement the BMPs prescribed in the county's manual, unless the director determines that these activities pose a hazard to public health, safety, or welfare; endanger any property; or adversely affect the safety and operation of county right-of-way, utilities, and/or other property owned or maintained by the county. The county council intends to consider the application of BMPs to single family residential activities after completion of the Storm Water Best Management Practices Manual. (Ord. 11624 § 5, 1994; Ord. 11624 § 3, 1994; Ord. 10636 § 5, 1992).

9.12.045 Administration. The director is authorized to implement the provisions of this chapter. The director of public works is authorized to promulgate and adopt administrative rules and regulations under the procedures specified in K.C.C. 2.98 for the purpose of implementing and enforcing the provisions of this chapter. The director of public works will coordinate the implementation and enforcement of this chapter with other departments of King County government. (Ord. 11624 § 5, 1994; Ord. 10636 § 6, 1992).

9.12.050 Enforcement. A. The director is authorized to carry out enforcement actions pursuant to the enforcement and penalty provisions of K.C.C. Title 23 and other enforcement provisions adopted by rule under the procedures of K.C.C. 2.98.

B. The director shall gain compliance with this chapter by requiring the implementation of BMPs and, when necessary, AKART. The director shall initially rely on education and informational assistance as much as possible to gain compliance with this chapter, unless the director determines a violation is a result of a flagrant act that should be addressed through immediate penalties or poses a hazard as defined in the Hazards section.

C. The director of public works, in consultation with other departments of King County government, shall develop and implement additional enforcement procedures. These procedures shall indicate how the county will investigate and respond to reports or instances of noncompliance with this chapter and shall identify by title the official(s) responsible for implementing the enforcement procedures.

D. The director is authorized to make such inspections and take such actions as may be required to enforce the provisions of this chapter. Such inspections shall be made in accordance with K.C.C. 23.08.040.

1. The director may observe best management practices or examine or sample surface and storm water or ground water as often as may be necessary to determine compliance with this chapter. Whenever an inspection of a property is made, the findings shall be recorded and a copy of the inspection findings shall be furnished to the owner or the person in charge of the property after the conclusion of the investigation and completion of the inspection findings.

(King County 12-94)

2. When the director has made a determination under subsection 1. of this section that any person is violating this chapter, the director may require the violator to sample and analyze any discharge, surface and storm water, ground water, and/or sediment, in accordance with sampling and analytical procedures or requirements determined by the director. If the violator is required to complete this sampling and analysis, a copy of the analysis shall be provided to the King County surface water management division.

E. In addition to any other penalty or method of enforcement, the prosecuting attorney may bring actions for injunctive or other relief to enforce this chapter. (Ord. 11624 § 5, 1994: Ord. 11624 § 4, 1994: Ord. 10636 § 7, 1992).

9.12.060 Hazards. Whenever the director determines that any violation of this chapter poses a hazard to public health, safety, or welfare; endangers any property; or adversely affects the safety and operation of county right-of-way, utilities, and/or other property owned or maintained by the county; the person holding title to the subject property, and/or other person or agent in control of said property, upon receipt of notice in writing from the director shall within the period specified therein address the cause of the hazardous situation in conformance with the requirements of this chapter.

Notwithstanding any other provisions of this chapter, whenever it appears to the director that conditions covered by this chapter exist requiring immediate action to protect the public health and/or safety, the director is authorized to enter at all times in or upon any such property, public or private, for the purpose of inspecting and investigating such emergency conditions. The director may without prior notice order the immediate discontinuance of any activity leading to the emergency condition. Failure to comply with such order shall constitute a misdemeanor as specified in K.C.C. 23.08.080. (Ord. 11624 § 5, 1994: Ord. 10636 § 8, 1992).

9.12.070 Criminal penalty. Any willful violation of an order issued pursuant to Section 9.12.050 or Section 9.12.060 of this chapter for which a criminal penalty is not prescribed by state law is a misdemeanor. (Ord. 11624 § 5, 1994: Ord. 10636 § 9, 1992).

9.12.080 Civil penalties for water quality. The enforcement provisions for water quality are intended to encourage compliance with this chapter. To achieve this, violators will be required to take corrective action and comply with the requirements of this chapter, and may be required to pay a civil penalty for the redress of ecological, recreational, and economic values lost or damaged due to their unlawful action.

A. The provisions in this section are in addition to and not in lieu of any other penalty, sanction or right of action provided by law.

(King County 12-94)

B. Any person in violation of this chapter shall be subject to civil penalties assessed as follows:

1. An amount reasonably determined by the director to be equivalent to the economic benefit the violator derives from the violation as measured by: the greater of the resulting increase in market value of the property or business value received by the violator, or savings of construction or retrofitting costs realized by the violator performing any act in violation of this chapter; and

2. An amount, not to exceed \$25,000, that is reasonably based upon the nature and gravity of the violation and the cost to the county of enforcing this chapter against the violator.

C. Any person who, through an act of commission or omission, aids or abets in a violation shall be considered to have committed the violation for the purposes of the civil penalty.

D. Each violator is jointly and severally liable for a violation of this chapter. The director may take enforcement action, in whole or in part, against any violator. The decisions whether to take enforcement action, what type of action to take, and which person to take action against, are all entirely within the director's discretion. Factors to be used in taking such enforcement actions shall be:

1. Awareness of the violation;
2. Ability to correct the violation;
3. Cooperation with government agencies;
4. Degree of impact or potential threat to water or sediment quality, human health, or the environment.

In the event more than one person is determined to have violated the provisions of this chapter, all applicable civil penalties may be imposed against each person, and recoverable damages, costs, and expenses may be allocated among the persons on any equitable basis. Factors that may be considered in determining an equitable allocation include:

1. Awareness of the violation;
2. Ability to correct the violation;
3. Ability to pay damages, costs, and expenses;
4. Cooperation with government agencies;
5. Degree of impact or potential threat to water or sediment quality, human health, or the environment.

E. Penalties may be reduced based upon one or more of the following mitigating factors:

1. The person responded to county attempts to contact the person and cooperated with efforts to correct the violation;

2. The person showed due diligence and/or substantial progress in correcting the violation;

or

3. An unknown person was the primary cause of the violation.

Payment of a monetary penalty pursuant to this chapter does not relieve the person of the duty to correct the violation.

F. All civil penalties recovered during the enforcement of this chapter under K.C.C. Title 23 shall be deposited into a fund of the division taking the enforcement action and shall be used for the protection of surface and storm water or ground water as set forth in this chapter, through education or enhanced implementation. (Ord. 11624 § 5, 1994; Ord. 10636 § 10, 1992).

(King County 12-94)

9.12.090 Construction-Intent. This chapter is enacted as an exercise of the county's power to protect and preserve the public health, safety and welfare. Its provision shall be exempted from the rule of strict construction and shall be liberally construed to give full effect to the objectives and purposes for which it was enacted. This chapter is not enacted to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this chapter.

The primary obligation of compliance with this chapter is placed upon the person holding title to the property. Nothing contained in this chapter is intended to be or shall be construed to create or form a basis for liability for the county, the department, its officers, employees or agents for any injury or damage resulting from the failure of the person holding title to the property to comply with the provisions of this chapter, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this chapter by the county, department, its officers, employees or agents. (Ord. 11624 § 5, 1994: Ord. 10636 § 11, 1992).

9.12.100 Effective Date. The effective date of this ordinance shall be November 26, 1992. (Ord. 11624 § 5, 1994: Ord. 10636 § 12, 1992).

9.12.110 Severability. If any provision of this chapter or its application to any person or property is held invalid, the remainder of the chapter or the application of the provision to other persons or property shall not be affected. (Ord. 11624 § 5, 1994: Ord. 10636 § 13, 1992).

